

REMARKS

Claims 1-23 are in the application. The Office Action states that claims 3, 4, 18, 21, and 22 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Applicants respectfully traverse the objection to claims 3, 4, 18, 21, and 22; however, to eliminate this issue, claims 3, 18, and 21 are amended to be in independent form, including all of the limitations of their respective base claim and any intervening claims. Claim 4 is dependent on claim 3, and claim 22 is dependent on claim 21. Based on the foregoing, Applicants respectfully request admittance of the amendments to claims 3, 18, and 21, reconsideration, and allowance of claims 3, 4, 18, 21, and 22.

Remaining claims 1, 2, 5-17, 19, 20, and 23 are rejected. To reduce the issues, claims 1, 2, 7, 11, 16, 17, 19, and 23 are amended to more positively recite Applicants' patentably novel yieldable prop.

Claims 1, 5, 6, 8-11, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 949,535 to Hamm (hereinafter also referred to as "Hamm"). Applicants respectfully traverse the rejection of claims 1, 5, 6, 8-11, and 23, however, to eliminate this issue, claims 1, 11, and 23 are amended to more positively recite Applicants' patentably novel yieldable prop. Amended claim 1, on which claims 5, 6, 8-11, and 23 are dependent, recites a yieldable prop having a first end and a second end. The prop includes but is not limited to a first hollow conduit, a second conduit slidably received in the first hollow conduit, and a clamp assembly to prevent the second conduit from further sliding into the first conduit. The clamp assembly is positioned adjacent to the first hollow conduit and the second conduit, and engages outer surfaces of the first and second conduits. A ring is slidably mounted on the outer surface of the second conduit, and at least one handle has a first end portion connected to the ring and an opposite second end portion connected to the first hollow conduit, with the clamp assembly between the ring and the second end portion of the handle.

Support for the amendments to claims 1, 11, and 23 is found, among other places, in the claims on file and the drawings, in particular Figs. 16, 17a, and 17b, and the discussion in the specification relating thereto. Based on the foregoing, Applicants respectfully request admittance of the amendments to claims 1, 11, and 23, and reconsideration of claims 1, 5, 6, 8-11, and 23.

Applicants respectfully submit that the disclosure of Hamm does not anticipate the yieldable prop recited in Applicants' claim 1 and the claims dependent thereon. More particularly, claim 1 recites, among other things, a ring slidably mounted on outer surface of a second conduit slidable in a first conduit, a handle having one end connected to the ring and the other end connected to the first conduit. A clamp assembly to prevent the second conduit from further sliding into the first conduit is between the first end and the second end of the handle.

The Office Action alleges that Hamm teaches a clamp assembly (6, 7, 8) between a ring (14, 18-20) and the first conduit (5), and at least one handle (11) connected to the ring and the first conduit. Assuming only for the sake of discussion that the Office Action's reading of Hamm is accurate, this reading of Hamm does not anticipate Applicants' yieldable prop recited in amended claim 1. More particularly, amended claim 1 recites that the clamp assembly is between the first and second ends of the handle. In Hamm, the clamp assembly is connected to the ends of the handle and, therefore, cannot be between the ends of the handle as recited in Applicants' claims 1, 5, 6, 8-11, and 23.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 1, 5, 6, 8-11, and 23 under 35 U.S.C. § 102(b) as being anticipated by Hamm.

Claims 1, 2, 5, 6, 8-11, 16, 17, 19, 20, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,192,079 to Hinselmann et al. (hereinafter also referred to as "Hinselmann"). Applicants respectfully traverse the rejection of claims 1, 2, 5, 6, 8-11, 16, 17, 19, 20, and 23, however, to eliminate this issue, claims 1, 2, 11, 16, 17, 19, and 23 are amended to more positively recite Applicants' patentably novel yieldable prop.

Claims 1, 5, 6, 8-11, and 23 were discussed above. Claims 16, 17, 19, and 20 are dependent on claim 2, of which claims 2, 16, 17, and 19 are amended. Amended claim 2 recites a yieldable prop having a first end and a second end, including but not limited to a first hollow conduit having a first end, a second conduit slidably received in the first end of the first hollow conduit, and a clamp assembly positioned adjacent to the first hollow conduit and the second conduit. The clamp assembly includes but is not limited to a housing positioned adjacent to the first end of the first conduit, and a wedge positioned between the housing and an external surface of the second conduit, with the inner surface of the wedge in facing relationship to the external surface of the second conduit, and the outer surface of the

wedge in facing relationship with the inner surface of the housing. The clamp assembly prevents the second conduit from further entering the first conduit. A ring is slidably received around the second conduit and spaced from the clamp assembly, and at least one handle is connected to the ring and the first hollow conduit, with the clamp assembly between the ring and the connection of the at least one handle and the first hollow conduit.

Support for the amendments to claims 2, 16, 17, and 19 is found, among other places, in the claims on file, the drawings, in particular Figs. 16, 17a, and 17b, and the discussion in the specification relating thereto. Based on the foregoing, Applicants respectfully request admittance of the amendments to claims 2, 16, 17, and 19, and reconsideration of claims 2, 16, 17, 19, and 20.

The Office Action alleges that Hinselmann discloses a yieldable prop having a first end and a second end having a clamp assembly (c, n, n') positioned adjacent to a first hollow conduit, a ring (c') received around a second conduit, the clamp assembly is between the ring (c') and the first conduit (a), and at least one handle (u) connected to the ring and the first conduit (Figs. 1, 2, 5, and 6).

Applicants' claim 1 recites, among other things, that the clamp assembly is between the first and second ends of the handle. Hinselmann discloses that the clamp assembly is connected to the end of the handle and, therefore, cannot be between the ends of the handle, as recited in Applicants' claims 1, 5, 6, 8-11, and 23.

Applicants' claim 2 recites, among other things, that the ring is slidably mounted on the outer surface of the second conduit spaced from the clamp assembly. In Hinselmann, the ring (c') is not spaced from the clamp assembly (c, n, n') and, therefore, Hinselmann cannot anticipate Applicants' yieldable prop recited in Applicants' claims 2, 16, 17, 19, and 20.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 1, 2, 5, 6, 8-11, 16, 17, 19, 20, and 23 under 35 U.S.C. § 102(b) as being anticipated by Hinselmann.

Claims 1, 5-11, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,089,742 to Powell (hereinafter also referred to as "Powell"). Applicants respectfully traverse the rejection of claims 1, 5-11, and 23. Claims 1, 5, 6, and 8-11 were discussed above. Claims 7 and 23 are dependent on claim 1 and are amended to more positively recite Applicants' patentably novel yieldable prop. Claim 7 is amended to be

dependent on claim 1. Support for the amendments to claim 7 is found, among other places, in the claims presently in the application. Support for the amendments to claim 23 is found, among other places, in the claims on file, the drawings, in particular Figs. 16, 17a, and 17b, and the discussion in the specification relating thereto. Based on the foregoing, Applicants respectfully request admission of the amendments to claims 7 and 23, and reconsideration of claims 1, 5-11, and 23.

The Office Action alleges that the hollow conduit (23) is a clamp assembly because it prevents member (16) from moving laterally with respect to member (10) and, therefore, functions as a clamp. Applicants respectfully submit that even if the allegations of the Office Action are accurate, Powell does not anticipate Applicants' claim 1 and the claims dependent thereon. More particularly, the clamp assembly of Applicants' claim 1 (unlike the clamp assembly of Powell that prevents lateral movement) prevents the second conduit from further sliding into the first conduit. Since Powell fails to disclose the function of Applicants' clamp assembly recited in claim 1, Powell cannot anticipate Applicants' claims 1, 5-11, and 23.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 1, 5-11, and 23 under 35 U.S.C. § 102(b) as being anticipated by Powell.

Claims 1, 5, 6, 8-11, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,870,278 to Lee (hereinafter also referred to as "Lee"). Applicants respectfully traverse the rejection of claims 1, 5, 6, 8-11, and 23 and request reconsideration thereof.

Claims 1, 5, 6, 8-11, and 23 were discussed above.

The Office Action alleges that Lee discloses a ring (45) received around a second conduit. Applicants' claim 1 recites that a ring is slidably mounted on the outer surface of the second conduit (see also Applicants' claim 11). The ring of Lee is captured for rotational motion on the shaft by C-rings (see column 2, lines 66-68 of Lee), and the ring is not slidably mounted on the outer surface of the second conduit, as recited in Applicants' claim 1. Since Lee fails to disclose Applicants' yieldable prop as recited in claim 1, Lee cannot anticipate Applicants' claims 1, 5, 6, 8-11, and 23.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 1, 5, 6, 8-11, and 23 under 35 U.S.C. § 102(b) as being anticipated by Lee.

Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamm in view of U.S. Patent No. 2,068,491 to Jakoubek et al. (hereinafter also referred to as "Jakoubek"). Applicants respectfully traverse the rejection of claims 12 and 13 and request reconsideration thereof.

Claims 12 and 13 are directly or indirectly dependent on claim 1. Claim 1 and Hamm were discussed above. In the above discussion of Hamm, it was shown that Hamm does not anticipate the patentably novel yieldable prop recited in Applicants' claim 1. Jakoubek does not cure the defects of Hamm. More particularly, Jakoubek discloses a chain 30 that functions to prevent complete separation between the cap 24 and the housing 10. One skilled in the art without the knowledge of Applicants' invention would not use the chain of Jakoubek with the arrangement of Hamm. More particularly, the chain of Jakoubek would reduce the aesthetic appeal of Hamm.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Hamm in view of Jakoubek.

Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hinselmann in view of Jakoubek. Applicants respectfully traverse the rejection of claims 12 and 13 and request reconsideration thereof.

Claims 12 and 13 are directly or indirectly dependent on claim 1. Claim 1, Hinselmann, and Jakoubek were discussed above. In the above discussion of Hinselmann, it was shown that Hinselmann does not disclose the patentably novel yieldable prop recited in claim 1. Jakoubek does not cure the defects of Hinselmann. Further, Applicants respectfully submit that there is no disclosure in Hinselmann and Jakoubek that would lead one skilled in the art to combine the references, and that one skilled in the art without the knowledge of Applicants' invention would not use the chain of Jakoubek as a visual tension indicator. There is no discussion in Hinselmann or Jakoubek of measuring tension applied to one pipe slidably mounted in another pipe. Further, having a length of chain that extends from the end of pipe b to below the clamp assembly of Hinselmann would be a long chain and would interfere with setting up the pit prop of Hinselmann.

Since there is no discussion of measuring tension in Hinselmann and Jakoubek, or of a tension indicator, the combination of Hinselmann and Jakoubek to use the

chain of Jakoubek as a tension indicator on the pit prop of Hinselmann is a combination using hindsight, i.e., using the knowledge of Applicants' claims 12 and 13.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Hinselmann in view of Jakoubek.

Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell in view of Jakoubek. Applicants respectfully traverse the rejection of claims 12 and 13 and request reconsideration thereof.

Claims 12 and 13, Powell, and Jakoubek were discussed above. In the above discussion of Powell, it was shown that Powell does not anticipate the patentably novel yieldable prop recited in Applicants' claim 1. Jakoubek does not cure the defects of Powell. More particularly, Jakoubek discloses a chain 30 that functions to prevent complete separation between the cap 24 and the housing 10. One skilled in the art without the knowledge of Applicants' invention would not use the chain of Jakoubek with the arrangement of Powell to measure tension because the portable work counter of Powell has two positions and no intermediate position. The first position is to secure the work counter between the floor and ceiling. The second position is to release the work counter from between the floor and ceiling. There would be no need for using the chain of Jakoubek with the pole of Powell to measure tension.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Powell in view of Jakoubek.

Claims 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamm. Applicants respectfully traverse the rejection of claims 14 and 15 and request reconsideration thereof.

Claims 14 and 15 are directly dependent on claim 1. Claim 1 and Hamm were discussed above. In the above discussion of Hamm, it was shown that Hamm does not disclose the patentably novel yieldable prop recited in Applicants' claim 1. Therefore, since Hamm fails to disclose the patentably novel features recited in claim 1, Hamm cannot disclose the features recited in claims 14 and 15.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Hamm.

Claims 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hinselmann. Applicants respectfully traverse the rejection of claims 14 and 15 and request reconsideration thereof.

Claims 14 and 15 are directly dependent on claim 1. Claim 1 and Hinselmann were discussed above. In the above discussion of Hinselmann, it was shown that Hinselmann does not disclose the patentably novel yieldable prop recited in Applicants' claim 1. Therefore, since Hinselmann fails to disclose the patentably novel features recited in claim 1, Hinselmann cannot disclose the features recited in Applicants' claims 14 and 15.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Hinselmann.

Claims 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell. Applicants respectfully traverse the rejection of claims 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Powell and request reconsideration thereof.

Claims 14 and 15 are directly dependent on claim 1. Claim 1 and Powell were discussed above. In the above discussion of Powell, it was shown that Powell does not disclose the patentably novel yieldable prop recited in Applicants' claim 1. Since Powell fails to disclose the patentably novel features recited in Applicants' claim 1, Powell cannot disclose the features recited in Applicants' claims 14 and 15.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Powell, and request allowance of claims 1, 2, 5-17, 19, 20, and 23.

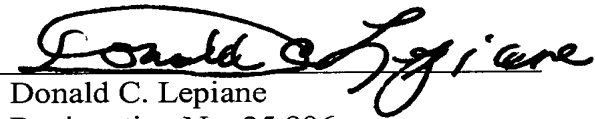
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This Amendment is deemed to place the application in condition for allowance. In the event issues remain, the Examiner is invited to call the undersigned before further action is taken on the case.

Respectfully submitted,

THE WEBB LAW FIRM

By

A handwritten signature in black ink, appearing to read "Donald C. Lepiane", written over a horizontal line.

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